



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

September 27, 2019

Tanvi Misra
MuckRock News
DEPT MR 77961
411A Highland Ave
Somerville, MA 02144-2516
VIA EMAIL: 77961-63756012@requests.muckrock.com

Re: Appeal No. **2019-IGAP-00010**
Request No. **2019-IGFOO-00214**
Appeal Adjudication - Final Response

Dear Mr. Misra:

This is in further response to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) Office of Inspector General (OIG), dated July 25, 2019, seeking:

1. All significant incident reports (SIRs) and significant event notifications (SENs) to date regarding the ongoing investigation into Department of Homeland Security's handling of sexual assault allegations, as referenced by Ms. Diana R. Shaw, Assistant Inspector General for Special Reviews and Evaluations, at the Office of Inspector General at a House Judiciary Committee hearing on July 25, 2019.
2. All materials relied upon by DHS-OIG in any investigation into DHS' handling of sexual assault allegations as referenced by Ms. Diana R. Shaw, Assistant Inspector General for Special Reviews and Evaluations, at the Office of Inspector General, at a House Judiciary Committee hearing on July 25, 2019 — including, but not limited to, photographs, interview notes, and electronic or paper communications;
3. All communication to date with DHS agency components regarding the investigation into DHS' handling of sexual assault allegations as referenced by Ms. Diana R. Shaw, Assistant Inspector General for Special Reviews and Evaluations, at the Office of Inspector General at a House Judiciary Committee hearing on July 25, 2019 — including, but not limited to, communication with ICE, CBP, HHS, and Immigrant Health Services Corps;

4. All follow-up communications to date from OIG to any DHS agency component or Congressional liaison regarding the investigation into DHS' handling of sexual assault allegations as referenced by Ms. Diana R. Shaw, Assistant Inspector General for Special Reviews and Evaluations, at the Office of Inspector General at a House Judiciary Committee hearing on July 25, 2019;
5. All communications to date between OIG and subject-matter experts, including, but not limited to, public health officials, regarding the investigation into DHS' handling of sexual assault allegations, as referenced by Ms. Diana R. Shaw, Assistant Inspector General for Special Reviews and Evaluations, at the Office of Inspector General at a House Judiciary Committee hearing on July 25, 2019; and
6. All completed drafts of forthcoming management alerts or reports on any ongoing investigation into DHS' handling of sexual assault allegations.

DHS-OIG responded to your request on August 9, 2019. In a letter dated August 23, 2019, and received on September 18, 2019 you appealed our final response stating that DHS OIG failed to properly segregate records related to this ongoing inspection.

Through my analysis of the case file, I determined that the records you requested were part of an active and ongoing OIG inspection. In order to allow OIG program offices to complete mission work without interruption to the decision-making process, OIG does not release pre-decisional work. The application of the Deliberative Process Privilege to the inspection and all of its underlying documents (including drafts, notes, communications, and the like) is in line with the intended application of Exemption 5. Further, there is no duty to segregate documents under the Deliberative Process Privilege, as until the agency has issued a final product – in this instance, when the agency has released the report to the public – the underlying documents all remain categorized as pre-decisional.

Therefore, in response to your appeal, I am upholding the decision to withhold the records under the Deliberative Process Privilege of Exemption 5. After the report on this matter is published, please feel welcome to re-file your FOIA request for these materials. If you are dissatisfied with my action on this remanded FOIA request, you may seek judicial review in accordance with the FOIA, 5 U.S.C. § 552(a)(4)(B).

Assistance and Dispute Resolution Services

Should you need assistance with your request, you may contact DHS-OIG's FOIA Public Liaison. You may also seek dispute resolution

services from our FOIA Public Liaison. You may contact DHS-OIG's FOIA Public Liaison in any of the following ways:

FOIA Public Liaison
DHS-OIG Counsel
STOP 0305
245 Murray Lane, SW
Washington, DC 20528-0305
Phone: 202-254-4001
Fax: 202-254-4398
E-mail: foia.oig@oig.dhs.gov

Additionally, the 2007 FOIA amendments created the Office of Government Information Services (OGIS) to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

Sincerely,

Jillian M. Clouse

Assistant Counsel
Information Law & Disclosure

Enclosure(s): FOIA Request; Appeal Letter

From: webpublishing@hq.dhs.gov on behalf of [WCM DHS](#)
To: [FOIA_OIG](#)
Subject: Form submission from: DHS FOIA / Privacy Act Request Submission Form
Date: Thursday, July 25, 2019 11:44:10 PM

Submitted on Thursday, July 25, 2019 - 23:44
Submitted by user: Anonymous
Submitted values are:

Select the DHS component you wish to submit your request to : Office of Inspector General (OIG)

Title:
First Name: Tanvi
Middle Initial:
Last Name: Misra
Suffix:
Email Address: 77961-63756012@requests.muckrock.com
Country: United States
Address 1: MuckRock News, DEPT MR 77961
Address 2: 411A Highland Ave
City: Somerville
State: Massachusetts
Zip Code: 02144
Telephone Number: 6172991832
Fax Number:

Are you requesting records on yourself? No

If yes, you must check the perjury statement:

By initialing here you are providing your electronic signature.:

Please describe the records you are seeking as clearly and precisely as possible:

To Whom It May Concern:

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5. All completed drafts of forthcoming management alerts or reports on any ongoing investigation into DHS' handling of sexual assault allegations;

BACKGROUND

On July 25, 2019, the House Judiciary Committee hosted a hearing on oversight of family separation and U.S. Customs and Border Protection short-term custody under the Trump administration where Ms. Diana R. Shaw, Assistant Inspector General for Special Reviews and Evaluations at the Office of Inspector General, testified. In response to a question by Rep. Mary Gay Scanlon (2:00:38: <https://judiciary.house.gov/legislation/hearings/oversight-family-separation-and-us-customs-and-border-protection-short-term>) about sexual assault allegations at CBP centers, Ms. Shaw responded:

"We do have work underway looking at the law enforcement components within Department of Homeland Security and how they handle cases of sexual assault and sexual misconduct. That work is, I believe, out of field work and in the process of drafting."

I am requesting these documents as a journalist who has been covering immigration issues for the last five years at [The Atlantic](#). Founded in 1857 and today one of the fastest growing media platforms in the industry, [The Atlantic](#) has throughout its history championed the power of big ideas and continues to shape global debate across print, digital, events, video, and audio platforms. With its award-winning digital presence [TheAtlantic.com](#) and [CityLab.com](#) on cities around the world, [The Atlantic](#) is a multimedia forum on the most critical issues of our times—from politics, global, and the economy, to technology, arts, and culture.

Currently, I'm an immigration reporter at [CQ-Roll Call](#), one of the oldest Congressional publications in the U.S with a track record of award winning non-partisan journalism — currently specializing in coverage of immigrant detention.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Tanvi Misra

Upload documents directly:

https://https://www.muckrock.comhttps://accounts.muckrock.com/accounts/login/?url_auth_token=AAAgebJAsscsZiw371aNOF0BM%3A1hq79%3A4FZiDrHktzkcR0kU6s9foxnmGE&next=https%3A%2F%2Fwww.muckrock.com%2Faccounts%2Flogin%2F%3Fnext%3D%252Faccounts%252Fagency_login%252Fdepartment-of-homeland-security-office-of-inspector-general-236%252Funderlying-documents-in-the-dhs-oig-investigation-of-dhs-handling-of-sexual-assaults-77961%252F%253Femail%253DFOIA.OIG%252540oig.dhs.gov

I am willing to pay fees for this request up to the amount of: \$: 25

Select from the list below: An individual seeking information for personal use and not for commercial use.
I request a waiver of all fees for this request.:
Please provide an explanation for your request for a fee waiver:
Please select and describe in detail if you believe your request warrants expeditious handling:
Please provide information to support your selection:

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FOIA APPEAL

Department of Homeland Security Office of Inspector General
FOIA Appeal
Mail Stop - 0305
245 Murray Lane SW
Washington, DC 20528-0305

August 23, 2019

This is a follow up to a previous request:

Dear FOIA officer,

I hereby appeal the agency's denial of my request in its entirety. DHS-OIG has failed to demonstrate releasing even a single record could reasonably be expected to cause harm to an ongoing investigation, or why no reasonably segregable portions of responsive records can be released.

Please immediately remand to the agency a segregability analysis and release of non-exempt records.

Thank you,
Tanvi Misra

Filed via MuckRock.com
E-mail (Preferred): 77961-63756012@requests.muckrock.com

For mailed responses, please address (see note):

MuckRock News
DEPT MR 77961
411A Highland Ave
Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

On Aug. 9, 2019:
Subject: OIG- FOIA Final Response 2019-IGFO-00214
Dear Mr. Misra:

Thank you for your interest in the U.S. Department of Homeland Security (DHS) Office of Inspector General (OIG). Attached please find DHS-OIG's Final Response letter of the above-referenced FOIA

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request.

Sincerely,
FOIA/DHS-OIG

On July 31, 2019:
Subject: Acknowledgement Letter 2019-IGFO-00214
Good afternoon Mr. Misra,

Attached you will find OIG- FOIA Acknowledgement Letter to your FOIA request.
Thanks,

OIG- FOIA

On July 25, 2019:
Subject: Form submission from: DHS FOIA / Privacy Act Request Submission Form
Submitted on Thursday, July 25, 2019 - 23:44
Submitted by user: Anonymous
Submitted values are:

Select the DHS component you wish to submit your request to: : Office of
Inspector General (OIG)

Title:

First Name: Tanvi

Middle Initial:

Last Name: Misra

Suffix:

Email Address: 77961-63756012@requests.muckrock.com

Country: United States

Address 1: MuckRock News, DEPT MR 77961

Address 2: 411A Highland Ave

City: Somerville

State: Massachusetts

Zip Code: 02144

Telephone Number: 6172991832

Fax Number:

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<https://judiciary.house.gov/legislation/hearings/oversight-family-separation-and-us-customs-and-border-protection-short-term>)

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about sexual assault allegations at CBP centers, Ms. Shaw responded:

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Select from the list below: An individual seeking information for personal use and not for commercial use.

I request a waiver of all fees for this request.:

Please provide an explanation for your request for a fee waiver:

Please select and describe in detail if you believe your request warrants expeditious handling:

Please provide information to support your selection:

On July 25, 2019:

~~Subject: Freedom of Information Act Request: Underlying documents in the DHS OIG investigation of DHS~~
handling of sexual assaults

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"We do have work underway looking at the law enforcement components within Department of Homeland Security and how they handle cases of sexual assault and sexual misconduct. That work is, I believe, out of field work and in the process of drafting."

I am requesting these documents as a journalist who has been covering immigration issues for the last five years at The Atlantic. Founded in 1857 and today one of the fastest growing media platforms in the industry, The Atlantic has throughout its history championed the power of big ideas and continues to shape global debate across print, digital, events, video, and audio platforms. With its award-winning digital presence TheAtlantic.com and CityLab.com on cities around the world, The Atlantic is a multimedia forum on the most critical issues of our times—from politics, global, and the economy, to technology, arts, and culture.

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Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

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Tanvi Misra

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addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.



OFFICE OF INSPECTOR GENERAL
Department of Homeland Security

Washington, DC 20528 / www.oig.dhs.gov

August 9, 2019

Tanvi Misra
MuckRock News, DEPT MR 77961
411A Highland Ave
Somerville, Massachusetts 02144

Subject: OIG Freedom of Information Act Request No. 2019-IGFO-00214
Final Response

Dear Mr. Misra:

This responds to your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS) Office of Inspector General (OIG), dated July 25, 2019, seeking records related to an AIG's (the AIG mentioned in the request is Diana Shaw) testimony at a House Judiciary Committee hearing on July 25, 2019 regarding DHS' handling of sexual assault allegations. Your request was received in this office on July 30, 2019.

In response to your request, a search was conducted in the DHS-OIG Office of Inspections.

As a result of our search, we have determined that the records you seek pertain to a matter that is ongoing. Because your request covers documents involving an ongoing DHS-OIG inspection, the documents are withheld pursuant to the deliberative process privilege of Exemption 5 of the FOIA, 5 U.S.C. § 552(b)(5). Although other exemptions may be applicable to these records, DHS-OIG is not in a position to assert other exemptions at this time since this matter is still pending.

Please note that DHS-OIG posts all of its non-classified final reports on the DHS-OIG web site at <http://www.oig.dhs.gov/>. You may, therefore, wish to check this web site periodically to see if the final report of this document is posted, or in the alternative, sign up to receive email notifications when a report is posted on our web site.

Appeal

This is the final action this office will take concerning this matter. You have the right to appeal this response.¹ Your appeal must be in writing and received within 90 days after the date of this response. Please address any appeal to:

FOIA/PA Appeals Unit
DHS/Inspector General
STOP 0305
245 Murray Lane, SW
Washington, DC 20528-0305

Both the envelope and letter of appeal must be clearly marked "Freedom of Information Act Appeal." Your appeal letter must also clearly identify DHS-OIG's response. Additional information on submitting an appeal is set forth in the Department of Homeland Security regulations at 6 C.F.R. § 5.8.

Assistance and Dispute Resolution Services

Should you need assistance with your request, you may contact DHS-OIG's FOIA Public Liaison. You may also seek dispute resolution services from our FOIA Public Liaison. You may contact DHS-OIG's FOIA Public Liaison in any of the following ways:

FOIA Public Liaison
DHS-OIG Counsel
STOP 0305
245 Murray Lane, SW
Washington, DC 20528-0305
Phone: 202-981-6100
Fax: 202-245-5217
E-mail: foia.oig@oig.dhs.gov

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¹ For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

under the Privacy Act of 1974. Using OGIS services does not affect your right to pursue litigation. You may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
8601 Adelphi Road - OGIS
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Web: <https://ogis.archives.gov>
Telephone: 202-741-5770
Fax: 202-741-5769
Toll-free: 1-877-684-6448

If you have any questions about this response, please contact us at 202-981-6100.

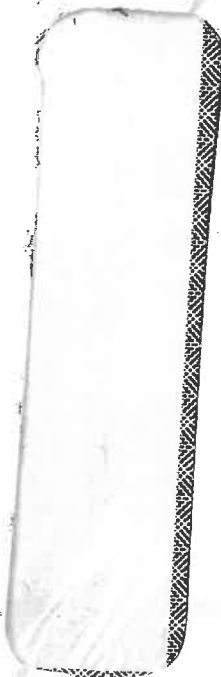
Sincerely,

Carlita Blocker
FOIA/PA Disclosure Specialist

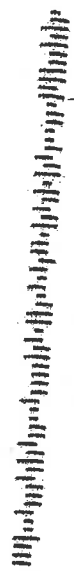


FOREVER 7-USA

BOSTON
FOIA APPEAL
26 AUG 2019 PM 6:1



20528-0305



DHS-CRDS

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and Quality Assurance

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